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DEC 19 2002

OFFICE OF PETITIONS

In re Application of :
Wilhelm F. Maier :
Application No. 09/254,525 : **DECISION ON PETITION**
Filed: March 8, 1999 :
Attorney Docket No.: STUDIEN262-K :
Title: USE OF MICROPOROUS ANORGANIC :
MEMBRANE CATALYSTS :

This is a decision on the petition to withdraw the holding of abandonment filed on August 12, 2002, pursuant to 37 C.F.R. §1.181(a).

The above-identified application became abandoned for failure to reply within the meaning of 37 CFR §1.113 in a timely manner to the final Office action mailed August 10, 2001, which set a shortened statutory period for reply of three (3) months. No extensions of time under the provisions of 37 CFR §1.136(a) were obtained. Accordingly, the above-identified application became abandoned on September 11, 2001. A Notice of Abandonment was mailed on April 4, 2002.

In response, on August 12, 2002, applicants filed the present petition. Petitioner states that "a search of the file jacket and docket records indicates that the Final Rejection was not received¹". Petitioner has also submitted a copy of the "docket card" for the associated file, and states that "if the Final Rejection had been received in the offices of the undersigned, it would have been noted on the docket card²."

The showing in the instant petition is not sufficient to withdraw the holding of abandonment. Although petitioner has stated that the Office communication was not received and that he searched the place where he normally would keep such communications and could not find it, the printout petitioner has supplied fails to establish non-receipt of the Office communication. The printout does not serve as a copy of the docket record where the non-received Office communication would have been entered had it been received and docketed. The printout is associated with the present file, whereas a docket report is a mail log, recorded by the person who receives all incoming mail. A docket report should show all incoming mail received during the relevant time period. Hence, the submitted copy of the docket card associated with the instant file fails to show the correspondence at issue was not received, and merely misplaced and filed with another file.

Should petitioner desire to file a renewed petition, petitioner should include a docket report to serve as evidence that the Office communication was not received.

¹ Petition, page 2.

² Id.

As such, this petition is **DISMISSED**.

Any request for reconsideration of this decision must be submitted within **TWO (2) MONTHS** from the mail date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted. The reconsideration request should include a cover letter entitled "Renewed Petition under 37 C.F.R. §1.181(a)."

In light of the recent events, the USPTO strongly prefers that the reply to this letter be submitted by facsimile³. However, if applicant cannot submit the reply to this letter by facsimile (or hand-delivery⁴), the reply may be mailed⁵.

The application file will be retained in the Office of Petitions for two (2) months.

The change in correspondence address has been entered and made of record.

Telephone inquiries should be directed to Petitions Attorney Paul Shanowski at (703) 305-0011.



Paul Shanowski
Petitions Attorney
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

³ (703) 308-6916, Attn: Office of Petitions.

⁴ Office of Petitions, 2201 South Clark Place, Crystal Plaza 4, Suite 3C23, Arlington, VA 22202.

⁵ Commissioner for Patents, Box DAC, Washington, DC 20231.